

REMARKS

REGARDING APPLICATION STATUS

Claims 1-44 are pending. Claims 1-7 and 37-44 were rejected. Claims 8-36 were withdrawn from consideration. As claim 2 remains the linking claim generic to claims 8-36, traversal to the restriction requirement is hereby maintained. Claims 1, 3-4, and 7-38 are amended herein. Claims 45-129 were cancelled previously. No claim is newly added. No new matter is introduced.

SUMMARY OF THE AFTER FINAL TELEHONIC INTERVIEWS

Three telephonic conversations occurred on April 14, 2005 between Examiner Teresa E. Strzelecka, Primary Examiner Jeffrey Fredman, and the undersigned. No agreement was reached. However, both examiners indicated that claim 4 is allowable. While the Applicants appreciate the favorable indication of the allowability of claim 4, it is respectfully submitted that the examiner should have, as a part of the first Office action on the merits, identified any claims which he or she judges to be allowable and/or should have suggested any way in which he or she considers that rejected claims may be amended to make them allowable.

If the examiner does not do this, then by implication it will be understood by the applicant or his or her attorney or agent that in the examiner's opinion, as presently advised, there appears to be no allowable claim nor anything

patentable in the subject matter to which the claims are directed. [MPEP 707.07(d)].

Examiner Strzelecka has kindly indicated that the present application can overcome the 35 U.S.C. § 112, first paragraph, rejections by adding a statement regarding the deposit of biological material to the specification. While the Applicants appreciate the Examiner's suggestion, it further deepens the confusion as to the very existence of the objections to the deposit of biological material as well as the rejections under 35 U.S.C. § 112, first paragraph.

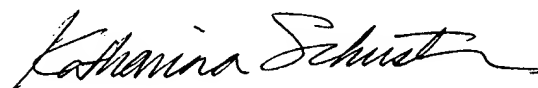
Primary Examiner Fredman apparently agreed. The deposit information required under 37 C.F.R. § 1.808 had been disclosed on page 52 of the Specification as originally filed and on page 63 per the amendment filed on August 6, 2001. Applicants therefore maintain that the objections to the deposit of biological material and the rejections under 35 U.S.C. § 112, first paragraph, are improper and should be withdrawn.

REGARDING AMENDMENTS TO THE CLAIMS

Claims 1, 3-4, and 7-38 are amended herein to expedite the resolution of the present application, which is under final rejection [MPEP 1207]. The amendments explicitly adopt terms suggested by both Examiner Strzelecka and Primary Examiner Fredman. As such, the amendments presented herein do not necessitate a new search, raise the issue of new matter, present additional claims, or otherwise introduce new issues. Entry of the amendments is therefore respectfully submitted to be proper.

Allowance of all pending claims is earnestly solicited. The examiner is invited to telephone the undersigned for discussing an examiner's Amendment or any suggested actions for accelerating prosecution and moving the present application to allowance.

Respectfully submitted,



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